



0000047105

ORIGINAL

BEFORE THE ARIZONA CORPORATION COMMISSION RECEIVED

WILLIAM A. MUNDELL
Chairman

Arizona Corporation Commission

DOCKETED

2002 OCT 21 P 4: 26

JIM IRVIN

Commissioner

OCT 21 2002

AZ CORP COMMISSION
DOCUMENT CONTROL

MARC SPITZER

Commissioner

DOCKETED BY

CAR

IN THE MATTER OF THE APPLICATION OF
ARIZONA PUBLIC SERVICE COMPANY FOR
AN ORDER OR ORDERS AUTHORIZING IT TO
ISSUE, INCUR, OR ASSUME EVIDENCES OF
LONG-TERM INDEBTEDNESS; TO ACQUIRE A
FINANCIAL INTEREST OR INTERESTS IN AN
AFFILIATE OR AFFILIATES; TO LEND MONEY
TO AN AFFILIATE OR AFFILIATES; AND TO
GUARANTEE THE OBLIGATIONS OF AN
AFFILIATE OR AFFILIATES.

Docket No. E-01345A-02-0707

STAFF'S RESPONSE TO APS'
MOTION FOR PROTECTIVE
ORDER

The Arizona Corporation Commission ("Commission") Utilities Division Staff ("Staff") hereby objects to the portions of the Company's Motion for Protective Order that place restrictions upon Staff's access to information.

The Company initiated this case when it filed its application. In this case, the Company is proposing to use its own assets to guarantee the financing of a competitive affiliate. The Company is seeking regulatory relief in order to remedy its affiliate's competitive dilemma. And by seeking this relief, i.e., the authorization to encumber the regulated entity's assets by \$500,000,000, it opens itself to examination upon every aspect of that request. The Company created this tension by filing this application. Having created its own dilemma, the Company should not be allowed to delay or limit Staff's review of this information.

Furthermore, the Company has not alleged that Staff should be foreclosed from seeing this highly confidential information, but instead claims that this information should not be provided to the merchant generators. The Company then proposes a solution in which any party who wishes to see this information must initiate a request with the ALJ. Staff objects to this procedure because it places the burden of obtaining it upon Staff, even though Staff is not the party from whom the Company seeks to shield this information and even though Staff has already entered a protective agreement with the Company. In addition, consistent with its status as a public service corporation, the

1 Company has a constitutional and statutory obligation to provide complete information to the
2 Commission upon request and without proof of "necessity."

3 Staff understands that APS may be reluctant to provide certain competitive information to the
4 merchant generators. Nonetheless, the remedy that APS has suggested will hamper Staff's receipt of
5 information, even though APS is not alleging that disclosure to Staff will competitively harm either
6 APS or its affiliates. Staff does not object to appropriate restrictions for the merchant generators'
7 review of highly sensitive information. However, Staff objects to APS' plan to place those same
8 restrictions upon Staff.

9 The procedural deadlines in this proceeding are tight, and Staff will be hard pressed to meet
10 existing filing deadlines. The Company's proposal has the potential to force Staff to initiate
11 proceedings before the ALJ to convince her that disclosure of competitively-sensitive information is
12 "necessary," thereby complicating this case by discovery disputes. This proposal is particularly
13 inequitable in light of the Company's admission that it has no objection to providing this information
14 to Staff. Thus, Staff objects to the portions of the Company's Motion for Protective Order that place
15 restrictions upon Staff's access to information.

16 RESPECTFULLY SUBMITTED this 21st day of October, 2002.

17
18 

19 David Ronald
20 Attorney, Legal Division
21 1200 West Washington
22 Phoenix, Arizona 85007
23 Telephone: (602) 542-3402

23 Original and ten copies of the foregoing
24 filed this 21st day of October, 2002,
25 with:

25 Docket Control
26 Arizona Corporation Commission
27 1200 West Washington
28 Phoenix, AZ 85007

1 Copy of the foregoing mailed this 21st
2 day of October, 2002, to:

3 Thomas L. Mumaw
4 Pinnacle West Capital Corporation
5 Law Department
6 P. O. Box 53999
7 Mail Station 8695
8 400 North Fifth Street
9 Phoenix, AZ 85072-3999
10 Attorneys for Arizona Public Service

11 Matthew P. Feeney
12 Jeffrey B. Guldner
13 Snell & Wilmer
14 One Arizona Center
15 400 East Van Buren
16 Phoenix, AZ 85004-0001
17 Attorneys for Arizona Public Service

18 Jay L. Shapiro
19 Fennemore Craig, P.C.
20 3003 N. Central, Suite 2600
21 Phoenix, AZ 85012
22 Attorneys for Panda Gila River

23 Larry F. Eisenstat
24 Michael R. Engleman
25 Frederick D. Ochsenhirt
26 Dickstein Shapiro Morin & Oshinsky, LLP
27 2102 L Street, N.W.
28 Washington, D.C. 20037
Attorneys for Panda Gila River

Scott S. Wakefield
Chief Counsel
RUCO
1110 W. Washington, Suite 220
Phoenix, AZ 85007

Raymond S. Heyman
Michael W. Patten
Roshka Heyman & DeWulf
One Arizona Center
400 E. Van Buren, Suite 800
Phoenix, AZ 85004
Attorneys for Tucson Electric Power

Michael A. Curtis
William P. Sullivan
Martinez & Curtis, P.C.
2712 North Seventh Street
Phoenix, AZ 85006
Attorneys for Reliant Resources, Inc.

1 Mr. Curtis Kebler
2 Reliant Resources, Inc.
3 8996 Etiwanda Avenue
4 Rancho Cucamonga, CA 91739

5 Mr. Brian Walker
6 Reliant Energy Wholesale Group
7 Post Office Box 286
8 Houston, TX 77001

9 Walter W. Meek, President
10 Arizona Utility Investors Association
11 2100 N. Central, Suite 210
12 Phoenix, AZ 85004

13 Lawrence V. Robertson, Jr.
14 Munger Chadwick, P.L.C.
15 National Bank Plaza
16 333 North Wilmot, Suite 300
17 Tucson, AZ 85711
18 Attorneys for Sempra Energy Resources,
19 Southwestern Power Group II, LLC, and
20 Bowie Power Station, LLC

21 Theodore E. Roberts
22 Sempra Energy Resources
23 101 Ash Street, HQ 12-B
24 San Diego, CA 92101-3017

25 Roger K. Ferland
26 Quarles & Brady Streich Lang LLP
27 Renaissance One
28 Two North Central Avenue
Phoenix, AZ 85004-2391
Attorneys for Harquahala Generating Company

Jay I. Moyes
Moyes Storey
3003 N. Central, Suite 1250
Phoenix, AZ 85012
Attorneys for PPL Southwest Generating
Holdings, PPL Energy Plus, and PPL
Sundance Energy

Jesse A. Dillon
PPL
2 North Ninth Street
Allentown, PA 18101

Greg Patterson
Arizona Competitive Power Alliance
5432 East Avalon
Phoenix, AZ 85018

28

1 Jana Brandt
2 Kelly Barr
3 Regulatory Affairs and Contracts
4 Salt River Project
5 Mail Station PAB221
6 P. O. Box 52025
7 Phoenix, AZ 85072-2025

8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28